



General Assembly

January Session, 2015

Raised Bill No. 7059

LCO No. 6136



Referred to Committee on FINANCE, REVENUE AND
BONDING

Introduced by:
(FIN)

***AN ACT ESTABLISHING REGISTRATION FEES FOR SELLERS AND
MANUFACTURERS OF ELECTRONIC CIGARETTE PRODUCTS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (a) of section 53-344b of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2016*):

4 (a) As used in this section and sections 2 and 3 of this act:

5 (1) "Electronic nicotine delivery system" means an electronic device
6 that may be used to simulate smoking in the delivery of nicotine or
7 other substance to a person inhaling from the device, and includes, but
8 is not limited to, an electronic cigarette, electronic cigar, electronic
9 cigarillo, electronic pipe or electronic hookah and any related device
10 and any cartridge, electronic cigarette liquid or other component of
11 such device;

12 (2) "Cardholder" means any person who presents a driver's license
13 or an identity card to a seller or seller's agent or employee, to purchase

14 or receive an electronic nicotine delivery system or vapor product from
15 such seller or seller's agent or employee;

16 (3) "Identity card" means an identification card issued in accordance
17 with the provisions of section 1-1h;

18 (4) "Transaction scan" means the process by which a seller or seller's
19 agent or employee checks, by means of a transaction scan device, the
20 validity of a driver's license or an identity card;

21 (5) "Transaction scan device" means any commercial device or
22 combination of devices used at a point of sale that is capable of
23 deciphering in an electronically readable format the information
24 encoded on the magnetic strip or bar code of a driver's license or an
25 identity card;

26 (6) "Sale" or "sell" means an act done intentionally by any person,
27 whether done as principal, proprietor, agent, servant or employee, of
28 transferring, or offering or attempting to transfer, for consideration, an
29 electronic nicotine delivery system or vapor product, including
30 bartering or exchanging, or offering to barter or exchange, an
31 electronic nicotine delivery system or vapor product;

32 (7) "Give" or "giving" means an act done intentionally by any
33 person, whether done as principal, proprietor, agent, servant or
34 employee, of transferring, or offering or attempting to transfer,
35 without consideration, an electronic nicotine delivery system or vapor
36 product;

37 (8) "Deliver" or "delivering" means an act done intentionally by any
38 person, whether as principal, proprietor, agent, servant or employee,
39 of transferring, or offering or attempting to transfer, physical
40 possession or control of an electronic nicotine delivery system or vapor
41 product; [and]

42 (9) "Vapor product" means any product that employs a heating

43 element, power source, electronic circuit or other electronic, chemical
44 or mechanical means, regardless of shape or size, to produce a vapor
45 that may or may not include nicotine, that is inhaled by the user of
46 such product; and

47 (10) "Electronic cigarette liquid" means a liquid that, when used in
48 an electronic nicotine delivery system or vapor product, produces a
49 vapor that may or may not include nicotine and is inhaled by the user
50 of such electronic nicotine delivery system or vapor product.

51 Sec. 2. (NEW) (*Effective January 1, 2016*) (a) On and after March 1,
52 2016, no person in this state may sell, offer for sale or possess with
53 intent to sell an electronic nicotine delivery system or vapor product
54 unless such person has obtained an electronic nicotine delivery system
55 certificate of dealer registration from the Commissioner of Consumer
56 Protection pursuant to this section. An electronic nicotine delivery
57 system certificate of dealer registration shall allow the sale of electronic
58 nicotine delivery systems or vapor products. A holder of an electronic
59 nicotine delivery system certificate of dealer registration shall post
60 such registration in a prominent location adjacent to electronic nicotine
61 delivery system products or vapor products offered for sale.

62 (b) (1) On or after January 1, 2016, any person desiring an electronic
63 nicotine delivery system certificate of dealer registration or a renewal
64 of such a certificate of dealer registration shall make a sworn
65 application therefor to the Department of Consumer Protection upon
66 forms to be furnished by the department, showing the name and
67 address of the applicant, the location of the place of business which is
68 to be operated under such certificate of dealer registration and a
69 financial statement setting forth all elements and details of any
70 business transactions connected with the application. The application
71 shall also indicate any crimes of which the applicant has been
72 convicted. Applicants shall submit documents sufficient to establish
73 that state and local building, fire and zoning requirements will be met
74 at the location of any sale. The department may, in its discretion,

75 conduct an investigation to determine whether a certificate of dealer
76 registration shall be issued to an applicant.

77 (2) The commissioner shall issue an electronic nicotine delivery
78 system certificate of dealer registration to any such applicant not later
79 than thirty days after the date of application unless the commissioner
80 finds: (A) The applicant has wilfully made a materially false statement
81 in such application or in any other application made to the
82 commissioner; (B) the applicant has neglected to pay any taxes due to
83 this state; or (C) the applicant has been convicted of violating any of
84 the cigarette or other tobacco products tax laws of this or any other
85 state or the cigarette tax laws of the United States or has such a
86 criminal record that the commissioner reasonably believes that such
87 applicant is not a suitable person to be issued a license, provided no
88 refusal shall be rendered under this subdivision except in accordance
89 with the provisions of sections 46a-80 and 46a-81 of the general
90 statutes.

91 (3) A certificate of dealer registration issued under this section shall
92 be renewed annually and may be suspended or revoked at the
93 discretion of the Department of Consumer Protection. Any person
94 aggrieved by a denial of an application, refusal to renew a dealer
95 registration or suspension or revocation of a dealer registration may
96 appeal in the manner prescribed for permits under section 30-55 of the
97 general statutes. An electronic nicotine delivery system certificate of
98 dealer registration shall not constitute property, nor shall it be subject
99 to attachment and execution, nor shall it be alienable, except that it
100 shall descend to the estate of a deceased holder of a certificate of dealer
101 registration by the laws of testate or intestate succession.

102 (4) The applicant shall pay to the department a nonrefundable
103 application fee of one hundred dollars, which fee shall be in addition
104 to the annual fee prescribed in subsection (c) of this section. An
105 application fee shall not be charged for an application to renew a
106 certificate of dealer registration.

107 (5) In any case in which a certificate of dealer registration has been
108 issued to a partnership, if one or more of the partners dies or retires,
109 the remaining partner or partners need not file a new application for
110 the unexpired portion of the current certificate of dealer registration,
111 and no additional fee for such unexpired portion shall be required.
112 Notice of any such change shall be given to the department and the
113 certificate of dealer registration shall be endorsed to show correct
114 ownership. Whenever any partnership changes by reason of the
115 addition of one or more partners, a new application and the payment
116 of new application and annual fees shall be required.

117 (c) The annual fee for an electronic nicotine delivery system
118 certificate of dealer registration shall be five hundred dollars.

119 (d) The department may renew a certificate of dealer registration
120 issued under this section that has expired if the applicant pays to the
121 department any fine imposed by the commissioner pursuant to
122 subsection (c) of section 21a-4 of the general statutes, which fine shall
123 be in addition to the fees prescribed in this section for the certificate of
124 dealer registration applied for. The provisions of this subsection shall
125 not apply to any certificate of dealer registration which is the subject of
126 administrative or court proceedings.

127 (e) (1) Any person in this state who knowingly sells, offers for sale
128 or possesses with intent to sell an electronic nicotine delivery system or
129 vapor product without a certificate of dealer registration as required
130 under this section shall be fined not more than fifty dollars for each
131 day of such violation, except that the commissioner may waive all or
132 any part of such fine if it is proven to the commissioner's satisfaction
133 that the failure to obtain or renew such certificate of dealer registration
134 was due to reasonable cause.

135 (2) Notwithstanding the provisions of subdivision (1) of this
136 subsection, any person whose electronic nicotine delivery system
137 certificate of dealer registration has expired and who knowingly sells,

138 offers for sale or possesses with intent to sell an electronic nicotine
139 delivery system or vapor product, where such person's period of
140 operation without such certificate of dealer registration is not more
141 than ninety days from the date of expiration of such certificate of
142 dealer registration, shall have committed an infraction and shall be
143 fined ninety dollars.

144 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
145 this subsection, no penalty shall be imposed under this subsection
146 unless the commissioner sends written notice of any violation to the
147 person who is subject to a penalty under subdivision (1) or (2) of this
148 subsection and allows such person sixty days from the date such notice
149 was sent to cease such violation and comply with the requirements of
150 this section. Such written notice shall be sent, within available
151 appropriations, by mail evidenced by a certificate of mailing or other
152 similar United States Postal Service form from which the date of
153 deposit can be verified.

154 Sec. 3. (NEW) (*Effective January 1, 2016*) (a) On and after March 1,
155 2016, no person in this state may manufacture an electronic nicotine
156 delivery system or vapor product unless such person has obtained an
157 electronic nicotine delivery system certificate of manufacturer
158 registration from the Commissioner of Consumer Protection pursuant
159 to this section. An electronic nicotine delivery system certificate of
160 manufacturer registration shall allow the manufacture of electronic
161 nicotine delivery systems or vapor products in this state. For the
162 purposes of this section, "manufacturer" means any person who mixes,
163 compounds, repackages or resizes any nicotine-containing electronic
164 nicotine delivery system or vapor product.

165 (b) (1) On or after January 1, 2016, any person desiring an electronic
166 nicotine delivery system certificate of manufacturer registration or a
167 renewal of such a certificate of manufacturer registration shall make a
168 sworn application therefor to the Department of Consumer Protection
169 upon forms to be furnished by the department, showing the name and

170 address of the applicant, the location of the place of business which is
171 to be operated under such certificate of manufacturer registration and
172 a financial statement setting forth all elements and details of any
173 business transactions connected with the application. The application
174 shall also indicate any crimes of which the applicant has been
175 convicted. Applicants shall submit documents sufficient to establish
176 that state and local building, fire and zoning requirements will be met
177 at the place of manufacture. The department may, in its discretion,
178 conduct an investigation to determine whether a certificate of
179 manufacturer registration shall be issued to an applicant.

180 (2) The commissioner shall issue an electronic nicotine delivery
181 system certificate of manufacturer registration to any such applicant
182 not later than thirty days after the date of application unless the
183 commissioner finds: (A) The applicant has wilfully made a materially
184 false statement in such application or in any other application made to
185 the commissioner; (B) the applicant has neglected to pay any taxes due
186 to this state; (C) the applicant has been convicted of violating any of
187 the cigarette or other tobacco products tax laws of this or any other
188 state or the cigarette tax laws of the United States or has such a
189 criminal record that the commissioner reasonably believes that such
190 applicant is not a suitable person to be issued a license, provided no
191 refusal shall be rendered under this subdivision except in accordance
192 with the provisions of sections 46a-80 and 46a-81 of the general
193 statutes.

194 (3) A certificate of manufacturer registration issued under this
195 section shall be renewed annually and may be suspended or revoked
196 at the discretion of the Department of Consumer Protection. Any
197 person aggrieved by a denial of an application, refusal to renew a
198 certificate of manufacturer registration or suspension or revocation of a
199 certificate of manufacturer registration may appeal in the manner
200 prescribed for permits under section 30-55 of the general statutes. An
201 electronic nicotine delivery system certificate of manufacturer
202 registration shall not constitute property, nor shall it be subject to

203 attachment and execution, nor shall it be alienable, except that it shall
204 descend to the estate of a deceased holder of a certificate of
205 manufacturer registration by the laws of testate or intestate succession.

206 (4) The applicant shall pay to the department a nonrefundable
207 application fee of one hundred dollars, which fee shall be in addition
208 to the annual fee prescribed in subsection (c) of this section. An
209 application fee shall not be charged for an application to renew a
210 certificate of manufacturer registration.

211 (5) In any case in which a certificate of manufacturer registration has
212 been issued to a partnership, if one or more of the partners dies or
213 retires, the remaining partner or partners need not file a new
214 application for the unexpired portion of the current certificate of
215 manufacturer registration, and no additional fee for such unexpired
216 portion shall be required. Notice of any such change shall be given to
217 the department and the certificate of manufacturer registration shall be
218 endorsed to show correct ownership. Whenever any partnership
219 changes by reason of the addition of one or more partners, a new
220 application and the payment of new application and annual fees shall
221 be required.

222 (c) The annual fee for an electronic nicotine delivery system
223 certificate of manufacturer registration shall be five hundred dollars.

224 (d) The department may renew a certificate of manufacturer
225 registration issued under this section that has expired if the applicant
226 pays to the department any fine imposed by the commissioner
227 pursuant to subsection (c) of section 21a-4 of the general statutes,
228 which fine shall be in addition to the fees prescribed in this section for
229 the certificate of manufacturer registration applied for. The provisions
230 of this subsection shall not apply to any certificate of manufacturer
231 registration which is the subject of administrative or court
232 proceedings.

233 (e) (1) Any person in this state who knowingly manufactures an

234 electronic nicotine delivery system or vapor product without a
235 certificate of manufacturer registration as required under this section
236 shall be fined not more than fifty dollars for each day of such violation,
237 except that the commissioner may waive all or any part of such fine if
238 it is proven to the commissioner's satisfaction that the failure to obtain
239 or renew such certificate of manufacturer registration was due to
240 reasonable cause.

241 (2) Notwithstanding the provisions of subdivision (1) of this
242 subsection, any person whose electronic nicotine delivery system
243 certificate of manufacturer registration has expired and who
244 manufactures in this state an electronic nicotine delivery system or
245 vapor product, where such person's period of operation without such
246 certificate of manufacturer registration is not more than ninety days
247 from the date of expiration of such certificate of manufacturer
248 registration, shall have committed an infraction and shall be fined
249 ninety dollars.

250 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
251 this subsection, no penalty shall be imposed under this subsection
252 unless the commissioner sends written notice of any violation to the
253 person who is subject to a penalty under subdivision (1) or (2) of this
254 subsection and allows such person sixty days from the date such notice
255 was sent to cease such violation and comply with the requirements of
256 this section. Such written notice shall be sent, within available
257 appropriations, by mail evidenced by a certificate of mailing or other
258 similar United States Postal Service form from which the date of
259 deposit can be verified.

260 Sec. 4. (*Effective from passage*) Not later than thirty days after the
261 federal Food and Drug Administration's proposed rule deeming
262 tobacco products to be subject to the federal Food, Drug and Cosmetic
263 Act, 21 CFR Parts 1100, 1140 and 1143, becomes final, the joint standing
264 committee of the General Assembly having cognizance of matters
265 relating to public health shall hold a public hearing for the purpose of

266 reviewing such rule and determining whether the committee
267 recommends amendments to the general statutes concerning products
268 subject to the rule, which products may include, but need not be
269 limited to, electronic nicotine delivery systems, vapor products and
270 electronic cigarette liquid.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2016</i>	53-344b(a)
Sec. 2	<i>January 1, 2016</i>	New section
Sec. 3	<i>January 1, 2016</i>	New section
Sec. 4	<i>from passage</i>	New section

Statement of Purpose:

To add electronic cigarette liquid to the electronic nicotine delivery systems and vapor products that require proof of age by transaction scan prior to sale, establish a dealer and manufacturer registration and associated fees and fines related to such registration, and require the Public Health Committee to review the federal Food and Drug Administration's proposed rule regarding tobacco products and recommend amendments to the general statutes, if any, regarding such electronic nicotine delivery systems and vapor products.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]